

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

1	UNITED STATES OF AMERICA,	)	
2		)	
3		)	
4		)	
5	Plaintiff,	)	Case No. 14 CR 447
6	-vs-	)	
7		)	Chicago, Illinois
8	HAKEEM EL BEY,	)	September 17, 2014
9		)	10:01 a.m.
10		)	
11	Defendant.	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE RICHARD A. POSNER

APPEARANCES:

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1 (Proceedings heard in open court:)

2 THE COURT: Good morning, everybody.

3 MR. CHANDRA: Good morning.

4 THE COURT: Maybe you could introduce yourselves.

10:01:59 5 MS. MALIZIA: Good morning, your Honor. Kathryn

6 Malizia on behalf of the United States.

7 MR. CHANDRA: Good morning, your Honor. Piyush  
8 Chandra with the Federal Defender Program, and Mr. El Bey is  
9 present as well.

10:02:10 10 THE COURT: This -- you are Mr. El Bey?

11 THE DEFENDANT: Yeah, I am, yes, sir.

12 THE COURT: All righty. Well, we can get started.  
13 You can all sit back.

14 Well, is there anything -- so this is a hearing about  
10:02:24 15 representation of Mr. El Bey. So is there anything, any  
16 preliminaries before I ask him the necessary questions or --

17 MR. CHANDRA: No, your Honor. I filed my motion to  
18 withdraw based on Mr. El Bey's request to represent himself.

19 I've had an opportunity to speak with Mr. El Bey on  
10:02:49 20 two occasions regarding -- regarding that issue and proceeding  
21 in that manner, and he, after having those discussions, he  
22 reiterated that he wished to represent himself.

23 THE COURT: And does the prosecutor have anything?

24 MS. MALIZIA: Your Honor, the government has no  
10:03:07 25 objection to Mr. Chandra withdrawing as counsel provided that

1 is what Mr. El Bey has expressed.

2 THE COURT: Provided what?

3 MS. MALIZIA: Provided that is Mr. El Bey's expressed  
4 wish that he represent himself in this case.

10:03:19 5 THE COURT: Okay. Well, why don't I -- Mr. El Bey,  
6 why don't you take the -- you know, stand in front of the mic  
7 there, and I will -- I will ask you a few questions.

8 So, what did I do with my -- so under the law, you  
9 have a right to counsel. You also have a right, with some  
10:04:08 10 qualifications, to represent yourself. And so far as counsel  
11 is concerned, depending on your financial circumstances, you  
12 may be entitled to have a lawyer appointed by the court and  
13 you wouldn't have to pay anything. That's one possibility.

14 If -- but if you have, you know, significant  
10:04:36 15 financial resources, then I wouldn't be allowed to appoint  
16 someone. You would have to hire a lawyer. I could help you  
17 find a lawyer, but you would have to pay for the lawyer.

18 So that's -- that's the choice. If you have no  
19 resources, you can have an appointed counsel, like the Federal  
10:04:57 20 Defender, and, you know, if you and this particular Federal  
21 Defender don't get along, there are other lawyers who could be  
22 appointed. But if you do have financial resources, then I  
23 just do not have the authority to appoint a lawyer, and you  
24 would have -- I mean -- and you would have to pay for a  
10:05:16 25 lawyer, although we could help you find one.

1           So that's -- that's your choice. And if you do want  
2 to represent yourself, then I do have to ask you a few  
3 questions. I'm also required to caution you about the  
4 downside of self-representation.

10:05:43

5           So, let me ask you whether you would prefer to  
6 represent yourself than to have an attorney?

7           THE DEFENDANT: I didn't understand, your Honor.

8           THE COURT: Let me ask whether you would prefer to  
9 represent yourself rather than to have a lawyer?

10:06:04

10          THE DEFENDANT: Yes. I'm coming in, your Honor, as a  
11 friend of the court in my own accord motu proprio.

12          THE COURT: I'm sorry, could you say that? I  
13 didn't --

10:06:21

14          THE DEFENDANT: I'm coming in as a friend of the  
15 court on my own accord motu proprio.

16          THE COURT: I didn't understand the last couple of  
17 words. Is that English?

18          THE DEFENDANT: Yes, it is, motu proprio. Motu  
19 proprio, your Honor.

10:06:35

20          THE COURT: Oh, I just don't understand those words.

21          THE DEFENDANT: Okay. Well, I'm coming in in the  
22 flesh on my own accord.

23          THE COURT: Okay. So you want to represent yourself.

24          THE DEFENDANT: I want to represent myself -- not  
25 represent myself.

10:06:46

1 THE COURT: I'm sorry.

2 THE DEFENDANT: Yes, I'm coming in on my own accord  
3 in the flesh --

10:06:59

4 THE COURT: Oh, on your own accord, okay, that's  
5 what -- I understand. Okay. And are you familiar with the --  
6 the offenses with which you're charged?

7 THE DEFENDANT: Yes.

10:07:24

8 THE COURT: The fraud, and you realize that if you  
9 are convicted, if you lose your case, there is a potentially  
10 heavy penalty, you know, long prison sentence is a  
11 possibility. It's not a certainty, but there is -- I'm sure  
12 you realize, it's a serious case.

13 THE DEFENDANT: I do.

10:07:51

14 THE COURT: So -- so we're required to advise a  
15 defendant who wants to represent himself that it's -- you'll  
16 be at a disadvantage if you do not have -- I don't know,  
17 maybe -- do you have any legal training, or have you studied  
18 law?

10:08:13

19 THE DEFENDANT: I've been in federal cases before,  
20 yes, sir.

21 THE COURT: Excuse me?

22 THE DEFENDANT: I've held -- been in federal cases.  
23 I filed federal cases before. I have.

24 THE COURT: Okay. So you have some familiarity with.

10:08:20

25 THE DEFENDANT: Yes, I do.

1 THE COURT: But you haven't studied -- I mean, you  
2 didn't go to law school or anything.

3 THE DEFENDANT: No.

4 THE COURT: Have -- have you ever previously  
10:08:30 5 represented yourself in a case?

6 THE DEFENDANT: I have.

7 THE COURT: You have.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Was that a criminal or a civil case?

10:08:37 10 THE DEFENDANT: No, it was a case that I brought  
11 myself.

12 THE COURT: That you brought yourself.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And how did you do in your case?

10:08:44 15 THE DEFENDANT: I don't remember.

16 THE COURT: Now, most of what a trial, a criminal  
17 trial, consists of is, you know, testimony by witnesses. And  
18 when a witness testifies, often the opposing lawyer will make  
19 an objection, say like hearsay or leading or not best  
10:09:30 20 evidence.

21 Now, if the prosecutor were to make an objection, say  
22 you were testifying or you had a witness who was testifying  
23 for you. If the prosecutor said objection, hearsay, or  
24 objection, leading, or objection, asked and answered, will you  
10:09:53 25 be -- will you be comfortable in evaluating the validity of

10:10:18

1 the objection? Because often, if you have lawyers on both  
2 sides and one lawyer says objection, the other lawyer will --  
3 may say, well, Judge, you know, I'd like to approach the  
4 bench. I'd like to -- I'd like to explain why I don't think  
5 that's a valid objection.

10:10:39

6 Now, if you're -- assuming, although you say you've  
7 had some experience in court, but if you're not actually  
8 familiar with the Federal Rules of Evidence, it will be  
9 difficult for you to contest an objection. So that's  
10 something you have to think about.

10:11:08

11 And I have to tell you also that I don't know whether  
12 you've had any previous experience with federal criminal  
13 prosecutions, but the -- you're up against the United States,  
14 right, the Justice Department, and just in this district,  
15 which is mainly Chicago, what, you have more than a hundred  
16 lawyers, don't you?

17 MS. MALIZIA: That's correct, your Honor.

10:11:25

18 THE COURT: These -- to be an Assistant United States  
19 Attorney, which means to be a federal prosecutor, this is a  
20 very elite job. This is very coveted by young lawyers, and  
21 they just get terrific people. So these are real pros and  
22 they're top law school graduates, and, you know, for anybody  
23 who is not a lawyer to have to be dueling with one of these  
24 prosecutors, it's very difficult. I mean, it's difficult for  
25 the experienced lawyers to go up against them.

10:11:57

1           So, you know, you want to think carefully whether you  
2 feel you can -- you can, without, I say, formal legal  
3 training, without -- whether you really are able to go up, you  
4 know, on terms of approximate equality with the ...

10:12:34

5           In addition, if you ever looked at the, and certainly  
6 can furnish you with the Federal Rules of Evidence, they're  
7 really formidable, and they go on and on.

10:12:59

8           And so there's this -- there's a general rule against  
9 hearsay, which means, you know, if someone told you something  
10 and you want to say that that person was telling the truth,  
11 and that sort of secondhand evidence is generally excluded,  
12 but there are, I don't know, you know better than I do, but I  
13 think there are more than 20 exceptions to the hearsay rule.

10:13:20

14           So if you were to object, say, it's hearsay, that the  
15 prosecutor wanted to put in hearsay evidence, she would say,  
16 well, yes, but there's Exception No. 13 or No. 17 or  
17 something, and you would be at a disadvantage because you're  
18 not, you know, steeped in all this stuff. I find it very  
19 confusing. I've been a lawyer for 53 years.

10:13:42

20           So generally with very, very rare exceptions, we  
21 advise -- we advise defendants that a competent lawyer who's  
22 experienced in criminal cases will do a much more effective  
23 job of defending you than you can do yourself, no matter how  
24 intelligent and articulate you are, because you lack the  
25 training.

10:14:24



1           So there's another thing which is unrelated to  
2 training, and so suppose that you decide that you want to  
3 testify. Now, you don't have to. There's no -- we can't  
4 compel a criminal defendant to testify, but if you decide to  
5 testify, you're in a somewhat awkward position because for  
6 ordinary testimony, the lawyer asks questions, the witness  
7 answers.

8           It's very difficult for you. I don't know how a  
9 jury, find it very puzzling if you tried to ask yourself  
10 questions. So you'd be providing a narrative, unlike the  
11 other witnesses, and the jury, you know, might wonder what --  
12 what this was about and whether this was, you know, kosher,  
13 whatever. And, you know, I could explain to the jury, you  
14 know, the defendant is representing himself. That's his  
15 right. And, of course, he can't really question himself, so  
16 he'll be narrating his testimony, but, you know, you should  
17 consider it as seriously as you'd consider any other witness's  
18 testimony, but it's -- it will be a problem.

19           And, again, it will be a situation where if the  
20 prosecutor says I object, you may find it, I mean, both  
21 awkward because you're in the witness box testifying, but also  
22 awkward because you're -- you're not going to be, as I say,  
23 steeped in the rules of evidence. And we may have to recess  
24 to give you a chance to study the particular rule of evidence  
25 in question and that may, you know, annoy the jury as delay,

1 it's delaying the trial.

10:16:37

2 Another complication, there's typically an opening  
3 statement by the lawyers and then a closing statement to the  
4 jury, and these statements have to remain within particular  
5 boundaries having to do with the nature of the case, and the  
6 jury is -- the judge is going to instruct the jury.

10:17:02

7 That's another difficult problem for a nonlawyer  
8 defending himself because toward the end of the trial, there  
9 will be an instructions conference, at which both sides  
10 propose instructions, you know, defining the crime and  
11 defining the state of mind that a defendant has to have to be  
12 convicted. And the prosecutor undoubtedly will come in with a  
13 set of instructions, and you will be at a disadvantage trying  
14 to challenge her instructions, suggesting your own  
15 instructions, putting them in language which is considered  
16 legally appropriate. So that's another problem.

10:17:27

17 So it's very, very uphill to defend yourself, but it,  
18 as I say, if you -- if you feel that you -- that that's  
19 advantageous for you, then you certainly have that right.

10:18:12

20 Now, you may want to think about this or discuss it  
21 with your friends or something like that.

10:18:47

22 One final wrinkle here, we usually, in a case where  
23 the defendant does decide to defend himself, we appoint a  
24 lawyer as what we call standby counsel. So the lawyer will  
25 not be representing you, but he'll -- he'll be available as a

1 resource. If you have questions about the law, he can -- he  
2 may be able to answer you. Again, there's a certain  
3 awkwardness because if you have to ask the standby counsel  
4 questions, it kind of interrupts the trial, and, you know, the  
5 jury -- the jury is going to come in with the expectation that  
6 both sides are represented by lawyers, and if they see the  
7 defendant is representing himself, they may say, oh, this is  
8 kind of weird stuff, what's going on, and it's just another  
9 way in which -- I will, of course, explain to the jury it's  
10 perfectly permissible for a defendant to defend himself, but  
11 the jury, they're going to have their own views and they may  
12 feel this is -- this is irregular.

13 So I would certainly recommend that you hire a lawyer  
14 if you can afford to or if you can't, I'll appoint one, but  
15 that would be my advice to you. But if you're -- if you're  
16 really set on defending yourself, then that's your right.

17 THE DEFENDANT: Yes, I am.

18 THE COURT: You may want to think about it. You  
19 don't have to decide today.

20 THE DEFENDANT: No, I'm -- I'm ready to defend  
21 myself.

22 THE COURT: I'm sorry, you have to speak a little  
23 louder.

24 THE DEFENDANT: No, nothing to think about. I'm  
25 ready to defend myself.

1 THE COURT: You're definite about that.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you have any --

10:20:43

4 MS. MALIZIA: Your Honor, would you object to me  
5 advising the defendant one more time of the crimes with which  
6 he's charged?

7 THE COURT: I'm sorry?

10:20:52

8 MS. MALIZIA: Would you object to me advising the  
9 defendant one more time of the crimes with which he is charged  
10 and the maximum penalties for those crimes?

11 THE COURT: Okay, you may if you wish.

10:21:07

12 MS. MALIZIA: The defendant is charged with two  
13 counts of mail fraud. Each of these counts carries a maximum  
14 penalty of 20 years, or a maximum fine of \$250,000 or twice  
15 the gross gain or loss.

10:21:23

16 So each of those counts alleges that the defendant  
17 defrauded the government of \$300,000. So twice \$300,000,  
18 that's 600,000 on each count. In addition, each of those  
19 counts, your sentence can run consecutively for a maximum  
20 sentence of up to 40 years.

21 You're also charged with six counts of making false  
22 claims against the government.

23 Do you understand what that means?

24 THE DEFENDANT: Yes, I do.

10:21:33

25 MS. MALIZIA: Each of those counts carries a maximum

1 penalty of 20 years and a maximum fine of \$250,000.

2 Do you understand that?

3 THE DEFENDANT: I do.

4 MS. MALIZIA: And those sentences can run  
5 consecutively.

10:21:41

6 THE DEFENDANT: Okay.

7 MS. MALIZIA: Are you familiar with the sentencing --  
8 the sentencing guidelines?

9 THE DEFENDANT: I am. I'm pretty familiar -- I'm  
10 pretty familiar. I don't need to be -- you don't have to -- I  
11 understand the charges that you're bringing against me, and as  
12 I said before, I'm ready to defend myself.

10:21:50

13 MS. MALIZIA: Okay.

14 THE DEFENDANT: Okay.

10:21:59

15 MS. MALIZIA: All right.

16 THE COURT: Is there anything further that I should  
17 do at this hearing or --

18 MS. MALIZIA: I just wanted to be clear that the  
19 defendant is aware of the maximum penalties he's facing should  
20 he choose to represent himself.

10:22:13

21 THE COURT: So -- so, Mr. El Bey, I would suggest  
22 that I appoint standby counsel, but -- but if you don't want  
23 me to, I won't. It's up to you.

24 THE DEFENDANT: No.

10:22:39

25 THE COURT: You don't want standby counsel.

1 THE DEFENDANT: No, sir.

2 THE COURT: Okay. So as I say, is there anything  
3 else we need to discuss or --

10:22:55

4 MS. MALIZIA: Oh, could we set a motion date, your  
5 Honor?

6 THE COURT: Pardon?

7 MS. MALIZIA: A schedule for pretrial motions and a  
8 new status date?

9 THE COURT: Right. Do you have a suggested date?

10:23:08

10 I had some dates, but I think they're probably too  
11 close.

12 MS. MALIZIA: We could do 30 days out.

13 THE COURT: Excuse me?

14 MS. MALIZIA: 30 days.

10:23:18

15 THE COURT: 30 days from today --

16 MS. MALIZIA: Is that all right?

17 THE COURT: -- is your suggestion?

18 What do you think?

19 THE DEFENDANT: Today is the -- yeah, that would be  
20 fine.

10:23:27

21 MS. MALIZIA: Will that give you enough time to file  
22 any pretrial motions?

23 THE DEFENDANT: Yes, it will. 30 days will give me  
24 time to do what I need to do.

10:23:34

25 MR. CHANDRA: And, Judge, I can tender discovery

1 today to --

2 THE COURT: Excuse me? I'm sorry, I can't hear you.

3 MR. CHANDRA: I'm sorry. I can tender the discovery  
4 I received from the government to Mr. El Bey today.

10:23:44 5 THE COURT: Tender it to --

6 MR. CHANDRA: Mr. El Bey today.

7 THE COURT: Okay. So is the 30 days, do the hearing  
8 on pretrial filings, is that okay?

9 THE DEFENDANT: Well, can we make it around the end  
10:23:59 10 of October? That way I have a little time to -- because I  
11 feel like I'm at a disadvantage because I haven't received  
12 anything, so I need time to look at her discoveries and get  
13 mine prepared and do the things I need to do.

14 THE COURT: So you'd prefer it to be end of October  
10:24:18 15 rather than middle of October.

16 THE DEFENDANT: Yes.

17 MS. MALIZIA: There's no objection from the  
18 government.

19 THE COURT: Excuse me?

10:24:23 20 MS. MALIZIA: No objection from the government, your  
21 Honor.

22 THE COURT: Okay. I'll -- I'll pick a date at the  
23 end of October.

24 And what about the next stage after that?

10:24:37 25 MS. MALIZIA: Well, depending on what Mr. El Bey

1 files, I'm not sure if he's going to -- he may try to suppress  
2 evidence in this case. It's really hard to say. I haven't  
3 had any communication either with counsel or with Mr. El Bey  
4 at this time about his intentions moving forward.

10:24:54

5 THE COURT: Okay. So the 30-day -- well, it's no  
6 longer. So toward the end of October, there will be these  
7 pretrial filings.

8 MS. MALIZIA: I think --

10:25:07

9 THE COURT: And then you're saying you want some  
10 interval to decide whether to --

11 MS. MALIZIA: I think at that time, I would have some  
12 sense whether or not it would be appropriate to set a trial  
13 date or a change of plea.

14 THE COURT: I see.

10:25:16

15 THE DEFENDANT: I don't have any information on  
16 anyone. I don't even know who's coming at me. I haven't  
17 received any information about --

18 THE COURT: She's coming at you.

10:25:27

19 THE DEFENDANT: I just need all her information and  
20 whoever is --

21 MS. MALIZIA: I will say the discovery in this case  
22 is not voluminous, but it is substantial.

23 THE COURT: That's yours, the government's discovery.

10:25:38

24 MS. MALIZIA: Yes. I tendered it to counsel last  
25 week, but it sounds like Mr. El Bey has not had a chance to



1 review any of it.

2 THE DEFENDANT: Well, he said he couldn't open it.  
3 He said it had a code on it, that he couldn't open it, so it  
4 didn't do me any good.

10:25:50 5 MS. MALIZIA: The password is actually in the cover  
6 letter to the discovery, but if you have any trouble accessing  
7 it, please let me know.

8 MR. CHANDRA: I'll -- and the government made that  
9 clear to me, and I'll make sure Mr. El Bey sees where that  
10:26:03 10 password is.

11 THE COURT: Would it make sense for the Federal  
12 Defender to remain, you know, until -- until next month to  
13 make sure you get everything?

14 MR. CHANDRA: Judge, I -- unless some -- Ms. Malizia  
10:26:35 15 expects to have more discovery, I believe I've received all  
16 discovery.

17 THE COURT: You received it.

18 MR. CHANDRA: And I will now tender it to Mr. El Bey  
19 today.

10:26:43 20 THE COURT: Okay. That's fine. I just want to make  
21 sure he gets it.

22 MS. MALIZIA: Certainly, yes. All Rule 16 has been  
23 produced.

24 THE COURT: I'm sorry?

10:26:50 25 MS. MALIZIA: All the Rule 16 discovery has been

1 produced in this case to Mr. Chandra.

2 THE COURT: Okay. So I see, so there isn't going to  
3 be any more between now and this hearing at the end of  
4 October?

10:27:02 5 MS. MALIZIA: No, your Honor.

6 THE COURT: So just a chance for Mr. El Bey to study  
7 it.

8 MS. MALIZIA: Certainly if the government becomes  
9 aware of additional discovery, we will produce it promptly,  
10:27:12 10 but at this time, I'm not aware of any.

11 THE DEFENDANT: And also I know we got a schedule  
12 date for September 25th. Would that day still --

13 THE COURT: No.

14 THE DEFENDANT: Okay.

10:27:21 15 THE COURT: That's off.

16 THE DEFENDANT: Yes, 'cause we're going to set a new  
17 date for today.

18 THE COURT: So -- well, Mr. El Bey, I would suggest  
19 that you use whatever free time you have between now and the  
10:27:32 20 end of October, not only in studying these discovery  
21 materials, but studying -- trying to familiarize yourself, to  
22 the extent you don't feel familiar, with judicial procedures.  
23 It's all online, you know. You can look up the Federal Rules  
24 of Evidence.

10:27:57 25 THE DEFENDANT: I have the book.

1 THE COURT: Okay. All right.

2 THE LAW CLERK: Judge?

3 THE COURT: Yes.

4 Question from my law clerk.

10:28:07 5 (Discussion held off the record.)

6 THE COURT: My law clerk just suggested, Mr. El Bey,  
7 I ask you, you said you didn't want to have standby counsel.  
8 I just wanted to ask you or he suggests I ask you why?

9 THE DEFENDANT: Why?

10:28:31 10 THE COURT: Yes.

11 THE DEFENDANT: I have some other people in law  
12 representing me, helping me study and prepare for the case.

13 THE COURT: I see. You have people who will help  
14 you.

10:28:41 15 THE DEFENDANT: Yes, sir. I have some other people  
16 helping me with the case, yes, sir.

17 THE COURT: Is that it?

18 MS. MALIZIA: Your Honor, if we could set a schedule  
19 for pretrial motions in advance of the next status hearing, I  
10:28:54 20 would suggest two weeks before the next status.

21 THE COURT: Now, wait. Next status hearing, that's  
22 different from the end of October or what?

23 MS. MALIZIA: No. So if we are setting the next  
24 status for the end of October, I just want to be clear are we  
10:29:10 25 going to be litigating pretrial motions at that time, or is

1 that just to allow the defendant to review discovery and we'll  
2 set a motions calendar at that -- on that date?

10:29:33

3 THE COURT: No, I would think, given -- we're talking  
4 about six weeks that -- that both you and Mr. El Bey should be  
5 prepared at that hearing to present any motions, or before. I  
6 don't know.

7 MS. MALIZIA: In that case, may I suggest setting a  
8 date for pretrial motions two weeks before that with responses  
9 due the week before the status hearing?

10:29:58

10 THE COURT: Well, I want to give Mr. El Bey the six  
11 weeks to prepare any motions.

12 MS. MALIZIA: So you're anticipating him filing  
13 motions on that date.

14 THE COURT: On that, yeah, the end of October.

10:30:10

15 MS. MALIZIA: When would the government's response be  
16 due?

17 THE COURT: You won't be filing motions?

18 MS. MALIZIA: Well, it's possible we would file  
19 pretrial motions. I don't anticipate at this time, but we  
20 would like a chance to respond in writing --

10:30:22

21 THE COURT: No, of course.

22 MS. MALIZIA: -- to Mr. El Bey's motions.

23 THE COURT: So how much time would you like?

24 MS. MALIZIA: I think a week should be fine.

10:30:30

25 THE COURT: A week? Okay. That's fine.

1 And should the government file any motions, you would  
2 also have a week.

3 THE DEFENDANT: Okay.

4 THE COURT: So are we all set? Is that it?

10:30:47

5 MS. MALIZIA: What would that date be in October,  
6 your Honor?

7 THE COURT: Oh, I'll have to look at my calendar, and  
8 I'll notify everybody today.

9 THE DEFENDANT: Okay.

10:30:57

10 THE COURT: Why, do you have a particular conflict  
11 or --

12 MS. MALIZIA: Not at this time, but we can look for  
13 the minute order.

14 THE COURT: All right. So I will set that.

10:31:04

15 THE DEFENDANT: Okay.

16 THE COURT: Do you have a particular day in late in  
17 October that would be bad for you?

18 THE DEFENDANT: Any time after the 25th of October  
19 would be fine.

10:31:15

20 THE COURT: 25th?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you want to say tentatively the 25th?

23 MS. MALIZIA: The 25th is a Saturday.

24 THE DEFENDANT: Okay.

10:31:22

25 THE COURT: Monday the -- it would be the 27th?

1 THE DEFENDANT: That's fine.

2 MS. MALIZIA: And just to be clear, the defendant's  
3 pretrial motions will be due on that date with the  
4 government's responses due or any response due from either  
10:31:35 5 party a week --

6 THE COURT: A week.

7 MS. MALIZIA: -- after that.

8 THE COURT: Yeah. Okay.

9 MS. MALIZIA: The government would also move to  
10:31:41 10 exclude time between now and the next status date.

11 THE COURT: To do what?

12 MS. MALIZIA: In the interests of justice.

13 THE COURT: Oh, for the Speedy Trial Act.

14 MS. MALIZIA: Yes, the Speedy Trial Act.

10:31:50 15 THE COURT: That's fine. So I should write  
16 something, shouldn't I? I mean, shouldn't I issue an order?

17 MS. MALIZIA: Yes. I think typically in the minute  
18 order, you include the date of the next status, the schedule  
19 for pretrial motions, and the granting the motion to exclude  
10:32:04 20 time as well.

21 MR. CHANDRA: And, Judge, just for the record, I'm  
22 assuming that the motion to withdraw has been granted?

23 THE COURT: Yes, that's -- that's fine, subject to  
24 your -- maybe it's not a total withdrawal because you'll make  
10:32:23 25 sure that Mr. El Bey gets all these materials, and if he has

1 difficulty -- this is online, is that the problem?

2 MR. CHANDRA: No, Judge, I have it here. They're on  
3 two disks.

10:32:37

4 THE COURT: Right. So if he has any trouble opening  
5 that, you'll help him.

6 MR. CHANDRA: I will.

10:32:50

7 MS. MALIZIA: Your Honor, I'd ask to, in addition to  
8 your granting Mr. Chandra's motion to withdraw, if you could  
9 also enter a minute order finding the defendant's waiver of  
10 counsel knowing and voluntary.

11 THE COURT: I'm sorry, finding what?

12 MS. MALIZIA: Finding the defendant's waiver of  
13 counsel knowing and voluntary.

14 THE COURT: Yes. All right. That's it. Okay.

10:33:06

15 So --

16 MR. CHANDRA: Thank you, your Honor.

17 THE DEFENDANT: So I can -- you'll e-mail it to --  
18 the dates and everything that we need to know about? You say  
19 you're going to put it on a -- we haven't got a date yet.

10:33:18

20 You're going to notify by e-mail --

21 THE COURT: No, I think October 27th will be the  
22 date --

23 THE DEFENDANT: Okay. October 27th, okay.

10:33:27

24 THE COURT: -- for filing any motions and then a week  
25 to respond.

1 MS. MALIZIA: I think Mr. El Bey's concern is that  
2 he's not on ECF at this time, but we can try to assist him --

3 THE COURT: You mean to get --

4 MS. MALIZIA: -- to receive notification.

10:33:38

5 THE COURT: -- online notification of everything?

6 THE DEFENDANT: Yes.

7 THE COURT: Okay. So that's something that you will  
8 help -- that they will help you get.

9 THE DEFENDANT: Okay.

10:33:45

10 THE COURT: Okay.

11 THE DEFENDANT: I appreciate it, Judge.

12 THE COURT: Okay.

13 THE DEFENDANT: Thank you very much.

14 THE COURT: Okay. So we'll be in recess. Thank you  
15 for your attendance.

10:33:52

16 THE DEFENDANT: Thank you very much.

17 THE COURT: And see you next month.

18 MS. MALIZIA: Thank you, your Honor.

19 (Which were all the proceedings heard.)

20 CERTIFICATE

21 I certify that the foregoing is a correct transcript from  
22 the record of proceedings in the above-entitled matter.

23 /s/Kathleen M. Fennell

February 11, 2016

24

25 Kathleen M. Fennell  
Official Court Reporter

\_\_\_\_\_  
Date